

# Information Sharing and Reporting In The Juvenile Justice System: A Survey of Existing Statutes

## Introduction <sup>i</sup>

There are many agencies and entities in Kentucky, both public and private, serving youth involved in the juvenile justice system. Together, these agencies and entities make up a network of services and programs for youth and families in need. The foundation of the juvenile justice system in Kentucky is the unified juvenile code, enacted in 1980 and fully implemented in 1987. The juvenile code delegates responsibility for youth to different entities and agencies depending on the needs of the youth and where the youth is in the continuum.

One of the primary historical reasons for the creation of separate juvenile courts and juvenile justice systems across the country was the belief that the focus of juvenile justice should be treatment and rehabilitation.<sup>ii</sup> Protecting the identity of the youth involved in the system furthers this goal<sup>iii</sup>. For this reason, the juvenile court process has historically been closed to the public, and statutes have traditionally protected the rights of juveniles regarding the sharing and release of information and the confidentiality of any information relating to the juvenile court process, even among agencies and entities seeking to effectively serve these youth.<sup>iv</sup>

Effective approaches to address the needs of youth involved in the juvenile justice system often rely upon interagency and interdisciplinary cooperation and collaboration to provide a comprehensive approach to the delivery of services.<sup>v</sup> One of the key components in the development of a collaborative approach to addressing juvenile delinquency is the establishment of efficient and effective interagency information sharing agreements.<sup>vi</sup> To establish interagency information sharing agreements, it is necessary for the various participants in the juvenile justice system to come together to identify what information is needed, why the information is needed, who has the information, who can access the information, and how the information may be used. All participants must be comfortable with the process, and have faith that the agreements developed will adequately protect the youth they serve, while fostering the delivery of more targeted and effective services.<sup>vii</sup>

Kentucky's existing statutes both support and hinder effective interagency information sharing. Statutes relating to information sharing and data collection were enacted at various times and for various purposes, often without consideration of other existing statutes addressing the same issue. The result is that the statutes sometimes offer conflicting directives to the agencies governed by them.

The purpose of this paper is to present an overview of the existing statutes in Kentucky relating to data collection and information sharing among selected agencies and entities involved in the juvenile justice system. Where possible, agency interpretations of the statutes have also been included. This overview is a crucial first step in the process of beginning to identify the issues around data collection and interagency information sharing in Kentucky.<sup>viii</sup>

## Two Types of Information

Individuals working with and for children in today's juvenile justice system have a need for two different types of information. Policy makers, individuals seeking grant funding, and agencies making data driven decisions need access to consistent, reliable aggregate data so that trends can be studied and analyzed, and so that the effectiveness of strategies and programs can be measured. Individuals working directly with children need access to information included in the files of other juvenile justice and child-serving agencies and entities, so that there is a complete picture of the child and his or her family at each step along the way, to ensure that appropriate services are being provided.

### Aggregate Data

The general purpose of most statutes addressing confidentiality is to protect the rights of individual children, not agency databases. However, state agencies serving children have historically been and continue to be very reluctant to share any information about children, even aggregate information, due in part to the long history of confidentiality around all juvenile information and the concern that individual children may be identified through information provided from the database.

Greater information sharing of aggregate data has also been hampered by information systems that are not compatible, that are outdated and inefficient, and that have historically not been designed to provide reports and information to external users desiring to use the data as a decision making tool.

A review of the relevant statutes reveals that there are no specific statutory prohibitions against any of the various agencies involved in the juvenile justice system sharing aggregate information so long as identifying information such as the youth's social security number or name is removed. In fact, there are several provisions throughout the statutes that encourage the sharing of aggregate information among agencies and entities, and that require agencies to produce statistical reports on a regular basis.

For example, new legislation enacted as a part of the Uniform Criminal Justice Information System encourages agencies to begin sharing information on a regular basis, and establishes a criminal justice statistical analysis center to gather and analyze criminal justice data on a regular basis (KRS 15.280). Kentucky's open records laws also support the sharing of aggregate information. The general policy of the state open records law is stated as follows:

"The General Assembly finds and declares that the basic policy of KRS 61.870 to 61.884 is free and open examination of public records in the public interest and the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others." (KRS 61.871)

The exemption section of the open records law provides that: "No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable

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person.” (KRS 61.878(2))<sup>ix</sup> Other specific statutes governing the release of information by agencies also provide specific exceptions for the release of aggregate data if individuals cannot be identified from the data.<sup>x</sup>

### **Individual Data**

The statutes that require confidentiality and that restrict the sharing of information all relate to information about individual children. Each agency and entity involved with children from schools to detention centers to protective services collect and maintain data and records on all children served. These records can be shared with some system providers, but not with others. Within a case file, some information can be shared and some cannot. In some circumstances, system providers are required to provide information to other system providers, who are limited by statute in what the information can be used for. In addition to the various individual statutes relating to the sharing of information, and the many statutes enacted as a part of the Uniform Criminal Justice Information System, discussed in more detail below, there is one broad statute that permits information sharing among some governmental agencies. That statute provides as follows:

- (1) Notwithstanding any existing statute or regulations to the contrary, any pertinent information concerning individual clients, patients or applicants in the possession of the Justice Cabinet, Cabinet for Health Services, Cabinet for Families and Children, Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if the agency has a direct, tangible legitimate interest in the individual concerned or his immediate family.*
- (2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family (KRS 205.177).<sup>xi</sup>*

When the many statutes restricting the sharing of information are considered in conjunction with broad based information sharing statutes like the statute noted above, and the UCJIS statutes noted below, it is clear why there is so much confusion and uncertainty around the sharing of information in our juvenile justice system.

### **The Uniform Criminal Justice Information System (UCJIS) Project**

Access to, and availability of criminal justice agency database information is beginning to change, primarily because of legislation passed by the 1998 General Assembly mandating the establishment of a uniform criminal justice information system. That project, known as the UCJIS Project, is under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. (KRS 17.131(2)). The goal of the UCJIS project is to create a system that will enable criminal justice agencies and courts to share data stored in each other's information systems. Responsibility for the creation of the centralized criminal history record information system is vested with the State Police. (KRS 17.151) When fully operational, the system will assign a unique identifier to each person that can

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be tracked across agencies and systems. The current implementation plan contemplates that the system will be operational by February of 2005. The implementation of the UCJIS project will impact both the availability of aggregate data and individual data for all involved agencies and entities.

The legislation creating UCJIS includes several specific provisions requiring criminal justice and child serving agencies to maintain databases and to share information<sup>xii</sup>. Most of the statutes that require sharing also include prohibitions against re-disclosure or improper use of the information. A summary of system wide information sharing provisions is included as Appendix A.

### **Specific Agency Information**

The remainder of this paper identifies specific data and information collection and sharing requirements for selected juvenile justice system agencies and entities. Information is presented in the following order:

Kentucky State Police (KSP)  
Local Law Enforcement  
Court Designated Worker (CDW)  
Court of Justice (CDW program, Court Clerks and AOC)  
Probation  
Department of Juvenile Justice (DJJ)  
Kentucky Department of Education / Kentucky School Board (KDE / KSB)  
Local School Districts  
Parents, Students and Guardians  
Cabinet for Families and Children  
Cabinet for Health Services  
Duty to Warn  
Miscellaneous

# Kentucky State Police (KSP)

## Data Collection Requirements

- **Fingerprints** – The KSP is required to design, implement and maintain an automated fingerprint identification system (KRS 17.180).<sup>xiii</sup> The standard method of creating a fingerprint record is currently through use of fingerprint cards, however Kentucky is moving toward live scan system (known as AFIS) where fingerprints are electronically conveyed to State Police Data Center. The AFIS system automatically identifies individuals who have re-entered the system, and assigns a unique SID number to those who have not previously been entered.
  - The Commonwealth is required to provide and maintain an automated fingerprint identification system in every juvenile detention center as directed by State Police. (KRS 17.180)
    - **Fingerprinting of Juveniles** - Beginning with HB 455, passed by the 1998 General Assembly, all arrested and detained juveniles are required to be fingerprinted. (KRS 441.046) (NOTE: See KRS 15.150(1)(b) for possible conflict with this requirement.)
    - Jailers are required to submit fingerprints to the State Police as directed by administrative regulation. (KRS 441.046). State Police report that there are continuing problems with compliance by some local jails, and that some jailers refuse to use the State Police provided AFIS live scan system to submit fingerprint cards, despite the statute that requires cooperation.
- **Centralized Criminal History – Criminal History Records Information System** – The KSP are required to collect data, develop forms, and to maintain a centralized criminal history record information system in cooperation with AOC, DJJ, CHS, and the Department of Corrections. (KRS 17.140, 17.147, 17.151), including fingerprint substantiated criminal history information. The second component of the criminal history system is the **Uniform Citation Form**, which was developed by the State Police and which is used by all law enforcement officers for all citations and arrests including misdemeanors and violation of traffic laws and other state statutes. Each citation has a unique serial number and the Supreme Court has approved the form for use. (KRS 431.450).
- **Update of Database within 30 days** – The KSP are required to update the criminal history database within 30 days of receipt of information, and to record all data elements necessary for UCJIS (KRS 15A.310, KRS 17.1522)
- **Unique Identifier Required** – The KSP are required to assign a unique, system wide identifier to each person entered into the criminal history system (KRS 17.151)
- **Uniform Offense Report** – Provides additional information for all felony and serious misdemeanor offenses for which a citation is not sufficient. This information is related to offense location, offense data, and information about the victim. Computerized agencies that collect this info electronically can submit in that form and are not required to use this form.
- **Kentucky Missing Child Information Center** – Serves as a central repository and clearinghouse for information about Kentucky children believed to be missing. Data can only be entered into the system or retrieved from the system by law enforcement or by the parents of a missing child if law enforcement refuses to enter or retrieve such information. (KRS 17.450)

## Data Included

- **Finger Print Card** - Includes Name, SSN, State ID #, FBI #, DOB, sex, race, height, weight, eyes, hair, charge, agency, UOR code and citation number.  
**Uniform Citation Information** – includes name, address, phone, DOB, SSN, sex, race/ethnic origin, height, weight, hair color, eye color, offense information (date, time, etc.), violation code including UOR, statute and charges.  
**NOTE:** Juvenile names were not included as part of the citation until 6 months ago, and are still not reported by some jurisdictions. Citation numbers are usually entered on fingerprint cards, and fingerprint cards are used to populate the criminal history database. However, many jurisdictions still do not fingerprint juveniles.  
**NOTE:** Citation information from local police IS NOT entered into KSP database unless accompanied by a fingerprint card.

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**NOTE:** Citations and fingerprint cards are entered into two different databases. Fingerprint Cards are entered into the criminal history database, and criminal arrest citations are entered into a statistical database only to capture aggregate data that cannot be tracked to a particular person.

- **Disposition Information** – KSP receives disposition information from AOC (about 25% of the court clerks report this information to KSP), and from local law enforcement officers but it is not complete, and due to volume all disposition information is not entered into the KSP system from citations originating from local police. KSP also receives disposition information from all KSP officers, which is entered into the criminal history system. The majority of the disposition information received by KSP comes from fingerprint cards submitted by the state prisons when inmates are processed into the DOC system. Each new prisoner is fingerprinted and the cards are submitted through AFIS to KSP with disposition included on the card. Dispositions are then manually entered into the criminal history system.

### **Mandated Information Sharing or Reporting Requirements**

- **Exchange of Information** – The KSP are required to cooperate in exchanging information with any other department or agency in Kentucky and with other police forces in and out of the state (KRS 16.130)
- **Information to FBI**- The KSP are required to forward a copy of a photograph, fingerprints and general description to the FBI (KRS 17.120)
- **Make Database Accessible** – The KSP are required to provide access to its database to AOC, DJJ, CHS and DOC. (KRS 17.151)
- **Missing Children** – Within 48 hours of receipt of a report of a missing child, the KSP is required to notify the state registrar of vital statistics. The KSP shall also notify the registrar of the recovery of a previously reported missing child. (KRS 17.470)

### **Information Sharing Prohibitions and Limitations**

- Centralized criminal history records are not subject to public inspection. (KRS 17.150)
- Juvenile data from the state police system is currently not available electronically to anyone, including KSP officers. Any data relating to a juvenile is segregated. This includes information on youthful offenders, as the system cannot differentiate them from other minors.<sup>xiv</sup> However, any legitimate police officer or criminal justice employee authorized by statute to receive juvenile information can contact the KSP Name Search Unit and the information will be released.

### **Mandated Reporting Requirements – Overview or Aggregate Information**

- **Criminal Statistics** – The KSP are required to prepare an annual statistical report on or before July 1 of each year of criminal statistics for the prior year including the number and type of offenses, personal and social characteristics of criminals and delinquents, and the administrative action taken by law enforcement, judicial, penal and correctional agencies dealing with criminals and delinquents (KRS 17.147, KRS 17.153)
- **Kentucky Missing Child Information Report** – On or before July 1 of each year, an annual report must be provided to the Secretary of Justice that provides statistical information on the number of missing children entered into the computer and located and recommendations for more timely and accurate reports and better usage of the computer. (KRS 17.450, 502 KAR 35:050)

# Local Law Enforcement

## Data Collection Requirements

- **Uniform Citation Required** - All peace officers<sup>w</sup> are required to use a uniform citation form developed by the State Police and Transportation Cabinet for all traffic violations, felonies, misdemeanors and violations. (KRS 431.450). Uniform citation forms requiring court disposition are delivered to the CDW by local law enforcement. Those that do not are forwarded directly to the State Police for data entry.
  - **Issue with Juveniles on Citations** - Many police departments still do not enter a juvenile's name or other identifying information on a citation issued to a juvenile, making it very difficult to match with fingerprint cards.
- **Required Fingerprinting of Juveniles** - The law requires all arrested juveniles to be fingerprinted (KRS 441.046), however this does not occur consistently statewide.
- **Local Case Files** - Most police departments have case information forms that officers are required to complete that do not get transferred to state police or the court system.

## Data Included

- **Data Collection Required** – KRS 17.150 requires all local law enforcement agencies to install and maintain records needed for reporting data required by the Justice Cabinet and to report to the Cabinet as and when directed by the Cabinet, **except that reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents identity.** (Note that this language conflicts with other later enacted statutes that require reporting of juvenile information).

## Mandated Information Sharing or Reporting Requirements

- **Cooperation with State Police** - Required to cooperate with State Police (KRS 16.130)
- **Photographing and Fingerprinting** - All city and county law enforcement agencies are required to forward a photograph and set of fingerprints and general descriptive report of all persons arrested on a felony charge to the State Police within 30 days of arrest (KRS 17.110, KRS 15.115(2)).
- **Notification of disposition** – Local law enforcement officers are required to notify the State Police of the disposition of all cases in which a person is charged with an offense (KRS 17.110(2), KRS 17.115(2)) NOTE: There is no time limit to comply with this requirement)
- **Juvenile Records** - Juvenile law enforcement records are to be made available to the child, family, guardian or legal representative of the child, the court, probation officers, prosecutors, DJJ, CFC and other law enforcement agencies.(KRS 610.320(3)).
- **Missing Children** - Local law enforcement is required to file missing child information with the State Police missing child information center within 24 hours of notification. Information relating to the missing child shall immediately be entered into the Law Information Network of Kentucky (LINK) and NCIC missing child database. (502 KAR 35:040)
- **Intelligence and Investigative Reports** – Are open to public inspection if prosecution is completed or a decision not to prosecute has been made. (KRS 17.150)

## Information Sharing Prohibitions and Limitations

- **Local law enforcement records** – Local law enforcement records relating to juveniles are generally confidential, except as provided in KRS 610.320 relating to the release of information by the courts in some circumstances. These

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circumstances are noted below under "Courts". Other exceptions to this general provision are noted in this section above under "Juvenile Records" (KRS 610.320(3))

- **Testimony at Trial** – The general confidentiality of law enforcement records does not relieve law enforcement officers from divulging information as a witness in a trial or hearing involving the case. (KRS 610.320(5)).

#### **Mandated Reporting Requirements – Overview or Aggregate Information**

None noted



# Court of Justice

The Court of Justice is a unified judicial system for operation and administration. §109 Ky. Const. The Kentucky Supreme Court has the power to prescribe rules of practice and procedure for the Court of Justice. §116. Ky. Const. Therefore, in addition to the Kentucky Revised Statutes, court rules must also be reviewed to determine the requirements for sharing and reporting information regarding juveniles. Pursuant to RCr 1.02(2), SCR 1.050(1) and CR 1. (2), the Circuit Court Clerks' Manual (Clerks' Manual) constitutes rules of the Kentucky Supreme Court and carry the same force and effect as the Kentucky Revised Statutes. Additionally, the Administrative Office of the Courts ("AOC") has established its policies for the administration of the Court Designated Worker ("CDW") Program in its CDW Manual. This Manual mandates the procedures for the processing of any juvenile matter by a CDW.

## A. Pre-court Process: Court Designated Worker Program (CDW)

### Introduction

In 1986, the Kentucky General Assembly provided funds for the creation of the statewide CDW Program. The CDW Program is a pre-court program under the direction of the Administrative Office of the Courts, Division of Juvenile Services. KRS 605.020-.040. In accordance with the Judicial Article (1976), the CDW Program adheres to uniform practices, which are set forth in the CDW Manual, on a statewide basis. CDWs provide intake and diversion services for the Court of Justice. See KRS 610.030. In this capacity, they process public and status complaints on individuals under the age of eighteen (18).

Because the CDW Program is a pre-court program, CDW records are not court records. CDW Manual, p.C2. Therefore, CDW data is not "court data" and statutes regarding court data are not applicable.

### Data Collection Requirements

- There are no specific statutory requirements directed at the collection and reporting of data by the CDW Program; however, the provisions of the CDW Manual provide the following guidelines for CDWs on data collection:
  - **Statewide Forms**  
CDWs use statewide standard forms to process juveniles and provide information to the court about juveniles meeting offense-based criteria for formal court processing. CDW Manual, p. H11 & H12.
    1. **Juvenile Complaint/Petition (Form JV-1):** KRS 610.202; KRS 620.070  
CDW uses this form to file a formal complaint or petition. The form includes the child's name; description of alleged offense including the KRS and UOR Code designation; description of the circumstances; juvenile's birth date, race, sex, social security number, address, telephone number, school, parents; and complainant's signature, address and telephone number.
    2. **Preliminary Inquiry Formal/Informal Processing Criteria and Recommendations (Form JW-40):** KRS 610.030. - The form contains offense-based criteria to assist the CDW in determining whether the case is appropriate for pre-court diversion or requires formal court action.
    3. **Public Offense Recommendation to County Attorney (Form JW-12):** KRS 635.010(1)(d)  
CDW recommends to the county attorney to proceed informally with a public offender.
    4. **Notice of Right to Special Review (Form JW-2):** KRS 635.010(1)(c), (d)  
CDW notifies victims of public offenses, as well as law enforcement officers, of the intent to divert a child.
    5. **Diversion Agreement (Form JW-9):** KRS 635.010(1)(e); KRS 610.020(2)(a)  
CDW sets forth the terms of the diversion. The child and parent sign this form.

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- The CDW database generally includes the same information included on these forms.
- **Citation Information**  
The CDW collects information from the law enforcement citation. If there is not a citation, the CDW collects the same information from the complainant.<sup>xvi</sup>
- **Process When Child Fails on Diversion**  
If a child fails on diversion, the CDW records the reason for failed diversion on Form JW-40 and recommends that the case be referred to court for a formal hearing or an informal adjustment. This process initiates formal court action. Therefore, once this stage is reached, the CDW Program is no longer involved.

## **Data Included**

- **Case Management**  
CDWs keep case files on each juvenile on which a complaint is filed.
- **Historical Database**  
Aggregate statistics are maintained by AOC Central Office Staff. In 1998, the Kentucky General Assembly provided funding for an electronic database for the CDW Program. Fiscal Year 2000 is the first full year current CDW data is available in an electronic format.
- **Length of Records Retention**  
Pursuant to the Court of Justice, Juvenile Services, CDW Program Records Retention Schedule March 2000, diversion records are retained until a child attains the age of 21.
- **Data Elements**  
Data elements included in the CDW database are roughly the same as the forms discussed above, which includes the following information from the complaint/petition: child's name; description of alleged offense including the KRS and UOR Code designation; description of the circumstances; juvenile's birth date, race, sex, social security number, address, telephone number, school, parents; and complainant's signature, address and telephone number.

## **Mandated Information Sharing or Reporting Requirements**

- **Notification of Intent to Divert a Public Offense**  
If the CDW determines, with the written approval of the county attorney, to divert a qualifying public offender, the CDW shall advise in writing the complainant, victim, if any, and law enforcement agency having investigative authority over the action of the recommendations and the reasons for the recommendation, and that he/she may submit within 10 days of receipt of the notice a complaint for the county attorney for special review.  
KRS 635.010(1)(c).
- **Petition Filed with the Court**  
If a child fails on diversion or the case is inappropriate for informal processing, the CDW prepares Form JW-40 and recommends that the case be referred to court for a formal hearing or an informal adjustment. KRS 635.010(1)(g), (2), (3). This process initiates formal court action, and the CDW Program is no longer involved.
- **Information Sharing**  
The CDW Program will share aggregate data in response to a written request after review of the request and determination of how the information will be used. There is a two-week process time.

## **Information Sharing Prohibitions and Limitations**

- **Information Supplied by a Child is Confidential**  
Information supplied by a child to a CDW during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or disclosure without written consent of the child. KRS 630.060(1); KRS 635.010(1)(b)4.
- If the terms of the diversion agreement are successfully completed, the CDW shall dispose of the complaint. The charges shall be considered dismissed, and further prosecution is prohibited. KRS 635.010(1)(f).
- **Release of Information (JW-10)**  
If the CDW determines it is necessary to obtain information about the child from another agency (for example to investigate diversion options), the CDW will ask the child and parent to sign a release of information form. The use of this form is necessary to protect the confidentiality rights of the juvenile.

## **Mandated Reporting Requirements – Overview or Aggregate Information**

The CDW Manual, Chapter R, mandates reporting to AOC Central Office by CDWs. CDWs are required to prepare monthly statistical reports for AOC. AOC field supervisors monitor trends and policy recommendations are made accordingly.

## **Miscellaneous Information**

- KRS 635.010(1)(c), (d), and (e) require notification to the county attorney, victim and law enforcement of the intent to enter into a diversion agreement with a public offender; therefore, the processing time is approximately three weeks for public offenders.
- Regarding status offenders, a pre-complaint conference is required pursuant to KRS 630.050(2). The purpose of this conference is to explore the social service interventions attempted by the family in an effort to avoid filing a complaint.

## **B. COURT PROCESS – Administrative Office of the Courts (AOC), Circuit Court Clerk, and Courts**

### **Data Collection Requirements**

- **AOC is the Primary Repository for Juvenile Records**  
AOC is designated as the primary repository of court records of juveniles charged with arrested for, and against whom complaints have been filed involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases. AOC is required to keep and maintain these records. KRS 27A.080.
- **Required Data Elements**  
AOC, as well as DJJ, CHS, DOC, and KSP shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system. KRS 27A.300; KRS 15A.310.
- **Description of Electronic Database Systems**  
SUSTAIN/KY Courts was developed by the AOC for use by circuit court clerks for case management in their local courts and captures data for that court. The system includes case history for all criminal and civil cases filed in the local Circuit and District Court. This electronic database is networked with its main server located in Frankfort at AOC, and the data collected in each circuit clerk's office can be retrieved at AOC. Access to statewide data is available at AOC; however, in each county, the system can only access that particular county's case information. Prior to 2000, Jefferson County had a separate electronic imaging system for case management. That system was replaced with KYCourts. AOC maintains an additional electronic database, Courtnet, which copies all criminal history data from SUSTAIN/KYCourts on a regular basis. AOC uses Courtnet for analysis, formulation of policy, and reporting purposes, as well as to provide criminal history information to the public and other state agencies as requested.
- **Unique Identifier**  
AOC shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the SUSTAIN/KYCourts in cooperation with KSP, DJJ, DOC, and CHS. KRS 27A.300(3); KRS 17.152.
- **Juvenile Information**  
In juvenile cases, the circuit court clerk receives documents from CDWs for cases meeting the uniform criteria for formal court. The two documents received by the clerk pursuant to these statutes are the Petition (JV-1) and the Preliminary Processing Inquiry Form (JW-40). KRS 610.030(3); KRS 635.010(1)(g).
- **Submission of Data to AOC**  
Each circuit clerk shall submit to the AOC, in a manner prescribed by Clerks' Manual, the final court disposition. Said disposition shall be inclusive of regulatory violations and traffic cases which are not subject to prepayment. AOC shall update their database within ninety (90) days of the disposition. The update shall include information from the: (1) Offender level; (2) Prosecution/grand jury level; (3) Court disposition level; (4) Sentencing level; and (5) Informational and evaluational level. KRS 30A.125.
- **Citation Accountability**  
The circuit clerk is required to maintain a system of accountability for all citations issued in accordance with rules and regulations issued by the Supreme Court to assure that they are not wrongfully destroyed, tampered with, or otherwise compromised in any manner. KRS 431.450(3).

Pursuant to the Clerks' Manual, each day law enforcement officers send a completed transmittal list, with all citations issued or voided attached thereto. KRS 431.455(2). The clerk is required to check the citations against the transmittal

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list. If there are any discrepancies, the clerk must report them to the law enforcement agency involved and to Court Service Field Representatives at the AOC.

## **Data Included**

- **Required Data Elements**

The centralized criminal history record information system shall consist of a minimum of seven (7) levels of information as follows:

- (1) Information relating to the offender;
- (2) Information relating to the arrest;
- (3) Information relating to the prosecution and action by the grand jury (when the case is brought before the grand jury);
- (4) Information relating to the court disposition of the case;
- (5) Information relating to sentencing;
- (6) Information relating to the handling of the offender if he/she is received by a correctional or other institution; and
- (7) Programs and information designed to enable the General Assembly, executive branch agencies, and others to assess the efficiency, functioning, and other aspects of the operation of the criminal justice system. KRS 27A.310.

- **Required Citation and Unique Identifier**

All data supplied to the centralized criminal history identification system is required to include a citation number and the unique personal identifier. KRS 17.152; KRS 17.1521.

## **Mandated Information Sharing or Reporting Requirements**

- **Availability of Data to Other Criminal Justice Agencies**

AOC, shall, in cooperation with KSP, DJJ, CHS, and DOC, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;
- (2) AOC shall provide access to KSP, DJJ, CHS, and DOC to its database; and
- (3) AOC shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the database. KRS 27A.300.

- **Public Access to Youthful Offender Circuit Court Records**

Records of juveniles tried as adults in the Circuit Court shall be open to the public after the child has been indicted and arraigned on the offense for trial as an adult. The release of the child's treatment, medical, mental, or psychological records is not permitted unless the records are presented as evidence in Circuit Court. KRS 635.120(1). The juvenile record is not delivered to Circuit Court except on court order when an indictment is returned. When transfer is ordered, only the petition and related pleadings, including the disposition that pertains to the transfer as a youthful offender, are sent to Circuit Court. The remainder of the juvenile record remains confidential unless unsealed by the court. Circuit Court Clerks' Manual, Juvenile Section.

- **DJJ Access to District Court Records**

DJJ is entitled to access a juvenile record when it is responsible for any services under KRS Chapters 600 to 645. KRS 610.340(3). However, KRS 27A.455 states that the DJJ shall have access to all court records, active and closed, relating to or in the custody of the juvenile session of the District Court. Obviously, these two sections are conflicting. The Clerks' Manual directs that DJJ be entitled to access any juvenile record in cases in which they are investigating or providing services.

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- **Mandated Information to Schools**

There are conflicting provisions regarding when juvenile case information can be released to a school principal, and the statute does not establish a mechanism for how this information is to be transferred.

- **Youthful Offenders** - Pursuant to KRS 610.345(1), when a child is adjudicated as a youthful offender, the court shall notify the principal of the petition, adjudication and disposition of the case. NOTE: There is no statutory timeline within which the principal must be notified, and the principal is required to release the information to employees of the school responsible for the classroom instruction of the student, and may release the information to transportation and counseling personnel and any other school employee with whom the student may come into contact.
- **Violent Offenders** - Pursuant to KRS 610.345(2), when a child is adjudicated as a violent offender under KRS 439.3401, or of a felony under KRS Chapter 218A, 508, 510, or 527<sup>xvii</sup>, the court shall notify the principal, within five days of the order, the charge, adjudication, and disposition of the case. The same notification obligations by the principal described above apply in this case as well.
- **Other Offenses** Pursuant to KRS 610.345(3), when *a petition is filed against a child or a child is adjudicated guilty of a felony or misdemeanor if committed by an adult and the misdemeanor involves a controlled substance, or the possession, carrying, or use of a deadly weapon, or physical injury to another person*, the court shall notify the principal of the charge, adjudication, and disposition of the case. There is no statutorily established timeframe within which the principal must be notified.

While KRS 610.320(3) states the principal may be entitled to information when a petition is filed, in all practicality, the adjudication and disposition cannot be released until such time as an adjudication and disposition has occurred. Therefore, the Clerks' Manual directs that the circuit court clerk shall, pursuant to the court's direction, but within five days of the child being adjudicated guilty of an offense(s) listed in the Manual, send a copy of the petition, adjudication and disposition. The Manual lists all capital offenses, felonies under KRS Chapter 218A, 508, 510, 527, or any misdemeanor that involves a controlled substance or possession, carrying, or use of a deadly weapon, or physical injury to another person.

- **Notification to Local Law Enforcement**

Courts are required to notify local law enforcement from a child's residence and from where an offense was committed of the disposition of the case and of each child committed by the court that is placed in a residential facility. KRS 610.110. Courts may notify local law enforcement of conditions of supervised placement for any juvenile placed by DJJ from a DJJ residential facility in the county. KRS 605.090(5).

- **Information to Agency to which Child is Committed**

If a court commits a child to DJJ, CFC or any other facility or agency, the court shall forward a certified copy of the commitment order and a summary of the information that the court has on the child to that agency or entity. KRS 610.110.

## **Information Sharing Prohibitions and Limitations**

- **Information Submitted to AOC is a Court Record and Are Not Subject to the Open Records Act**

All records which are made by, generated for, or received by any agency of the Court of Justice, or by any other court or agency or officer responsible to such court created under the present Constitution, or a former Constitution, whether pursuant to statute, regulation, court rule, or local ordinance shall be the property of the Court of Justice and are subject to the control of the Supreme Court. The Supreme Court shall determine which records were generated, made, or received by or for any court. KRS 26A.200(1)(2).

All public officers, public agencies, or other persons having custody, control, or possession of court records by statute or otherwise shall be subject to the direction of the Supreme Court with regard to such records and no such officer, agency, or person shall fail to comply with any rule, regulation, standard, procedure, or order issued by the Chief Justice or his designee. KRS 26A.220.

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Records generated by the courts are not subject to the Open Records Act. *Ex Parte Farley, Ky.*, 570 S.W.2d 617 (1978). The court thus held that although "there is very little in the policies evinced by the Open Records Law that we could not accept as a matter of comity. . . some details of the law . . . present interferences that we regard as inconsistent with a the orderly conduct of our own business, and those we do not accept." *Farley*, 570 S.W.2d at 625. The Attorney General has relied on this language in consistently holding that the courts and judicial agencies are not bound by the provisions of the Open Records Act except to the extent that those provisions are not in conflict with the court's rules and regulations governing access to its own records, and are accepted as a matter of comity. OAG 78-262; 98-ORD-6.

- **Limited Public Accessibility of Juvenile Court Information**

The Circuit Court Clerk's Manual provides that "all juvenile proceedings and records are confidential." KRS 610.320. Exceptions:

- a. The child and his/her parents may be access to the child's records. KRS 610.340(1).
- b. The child's attorney may have access to all juvenile records of his/her client. KRS 610.342(1).
- c. Employees of the CFC, DJJ, Crime Victim's Compensation Board, prosecutors, and police may have access to the records of cases in which they are investigating or prosecuting. KRS 610.340(2); KRS 346.040(4).
- d. Court-appointed CASA volunteers may have access to court files in which they are involved by reason of their appointment. KRS 620.520(2).
- e. A victim, the victim's parents or legal guardian, or victim's spouse may have access to a juvenile court case in which he/she is the victim. KRS 610.340(1), (2).
- f. If a juvenile is adjudicated delinquent, the petition, adjudication and disposition in all cases involving a Class A, B or C felony or any offenses involving a deadly weapon are public record. KRS 620.320(3).
- g. School principal (when a child is adjudicated as a youthful offender, a violent offender under KRS 439.3401, or a felony offender under KRS Chapter 218A, 508, 510, or 527) receives copy of the adjudication, petition and disposition of the case. KRS 610.345.
- h. Each local citizen foster care review board shall have access to all information and records of the court when pertinent to the child assigned to the local board for review. KRS 620.250(2).

Subject to the Kentucky Rules of Evidence, juvenile court records of felony adjudications shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person and may be used for impeachment purposes during a criminal trial and during the sentencing phase of a criminal trial. KRS 610.320(4).

- **Expungement of Juvenile Court Records**

If records relating to a juvenile are expunged pursuant to KRS 610.330, all records involving the child, including those maintained by the court, or any other agency or official including law enforcement and public or private elementary or secondary school are sealed. The case is deemed never to have occurred and all index references are deleted. No proceeding concerning a felony may be expunged. KRS 610.330.

- **Treatment, Medical Mental and Psychological Records**

These categories of records receive more protections than court dispositional information, and are not included as part of the general court information available. KRS 610.320; KRS 610.340.

## **Mandated Reporting Requirements – Overview or Aggregate Information**

- **Annual Report**

AOC shall issue an annual report beginning calendar year 1987 with sufficient detail as to be able to identify on a county-by-county basis, as well as statewide, totals for felony arrest:

- (1) Conviction percentages;
- (2) Percentages of fines, imprisonment, or other penalty assessment;
- (3) Percentage of acquittals;
- (4) Percentage of dismissals;

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- (5) Percentage of pleas as charges;
- (6) Percentage of pleas to reduce charges;
- (7) Percentage of disposition of guilty as charged by trial;
- (8) Percentage of those found guilty of lesser charge by trial;
- (9) Percentage of cases where jury trial taken;
- (10) Percentage of trials which are bench trials; and
- (11) Number of juvenile offenders tried as an adult.

The information gathered shall be available to all agencies involved in the criminal justice system and the public.

KRS 27A.460. However, KRS 27A.460 does not specifically address that juvenile offenders be included in the report, with the exception of youthful offenders.

In compliance with this section, AOC works with the KSP to produce the Uniform Crime Report; however, AOC will be producing an independent report in addition to the Uniform Crime Report for FY 2001.



## Probation Officers

KRS 605.050 permits the establishment of probation departments in cities of the first or second class, and requires the establishment of a probation department in counties containing an urban county government. The statute also permits the Chief District Judge to appoint volunteer probation officers. KRS 605.060 sets forth the duties of probation officers. Probation officers are included here because there are specific provisions in the juvenile code relating to the confidentiality of information obtained by probation officers in the course of their duties.

### **Confidentiality and Information Sharing Provisions**

- **General Confidentiality** – Probation officers are not permitted to communicate any information obtained pursuant to the discharge of their duties to any person other than the court, law enforcement, DJJ, an officer of the court interested in the case, a member of the court advisory board or a representative of CFC without the consent of the District Judge sitting in juvenile court. (KRS 610.320(2))
- **Confidentiality of Records** – Any record of the actions of probation officers is confidential except they can be shared with the court, and other probation officers. (KRS 610.320(2))
- **Testifying at Trial** – The general confidentiality provisions noted above do not apply in circumstances where a probation officer is providing testimony at trial. (KRS 610.320(5)).

## Department of Juvenile Justice (DJJ)

### Data Collection Requirements

- **UCJIS Elements** - Required to record all data elements necessary to implement the UCJIS system, which include, at a minimum, the elements noted above under AOC. (KRS 15A.310, KRS 17.151)
- **Update of Database** - Required to update database within 30 days of receipt of information. (KRS 15A.312)
- **Citation Number and Unique Identifier** – Required to include citation number and unique identifier for all information supplied to centralized criminal history system (KRS 17.152)
- **Detention Data**- All detentions center including those operated by counties, are required to complete and maintain an admissions form, and specific records for each juvenile housed. See below for required data elements.
- **Sex Offender Program Information** - Required to maintain a file on the names and identity of sex offender program participants for 15 years following their participation in the program. (KRS 635.545).
- **Sex Offender Program Report** - Required, on a biannual basis, to request information from AOC and KSP information systems concerning whether any sex offender program participants have been arrested, tried, convicted, or incarcerated for any criminal offense. (KRS 635.545(2)).
- **DJJ Data System** - DJJ's data system is called JORI. DJJ community workers enter data directly into JORI through the use of a windows based custom program with drop down menus.

### Data Included

#### Detention Data –

- **Admissions Form** - 505 KAR 2:040 requires detention centers to record the following information on an admission form: court case number, date and time of admission and release, name and nickname, address, authority for detention, name of attorney, name and signature of delivering officer, charges, sex, DOB, place of birth, race or nationality, education and school attended, employment if any, religion, health status, medical consent forms, name, relationship, address and phone number of parent, guardian, etc., driver's license number, social security number and Medicaid number if applicable, date of petition, court and disposition if any, person recording data, inventory of property, emergency contact and suicide assessment.
- **Detention Records** – Detention facilities are required to maintain the following information for each juvenile housed in the facility: intake information, documented legal authority to accept juvenile, information on referral source, record of court appearances, signed release of information forms, a record of cash and valuables held, notations of temporary absences from the facility, visitor's names and dates of visits, a record of telephone calls, probation officer or caseworker assigned, progress reports on program involvement, signed program rules and disciplinary policy, grievance and disciplinary record, if any, and final discharge or transfer report. (505 KAR 2:040)

**JORI System** - JORI includes information about most children in out of home care, probated or committed to DJJ. The records relating to out of home placements are more complete than those on juveniles in the community. JORI includes basic demographic information, and information about the case worker, placements, offense/legal history, case notes, abuse and neglect information, institutional behavior, educational information, case plans and treatment plans.

### Mandated Information Sharing or Reporting Requirements

- **Database** – DJJ is required to provide access to its database to Commonwealth's Attorneys, county attorneys, law enforcement agencies, KSP, DOC, CHS and AOC. (KRS 15A.310(3))

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- **Youthful Offender Information** – Must be shared with the parole board and Department of Corrections (DOC) upon request. (KRS 640.090), and with DOC when a juvenile is transferred to DOC. (KRS 640.110).
- **Educational Passport** – DJJ will be provided an educational passport from any school which a DJJ child is leaving, and DJJ must forward that document to the child's new school within 2 days (KRS 158.137).
- **Notification to Court of Discharge of Commitment** – DJJ must notify the committing court in writing 14 days before the effective date of the discharge that a commitment will be discharged. DJJ also must notify the committing court in writing 14 days before a child turns 18 that the commitment is about to expire. DJJ is also required provide a written summary of information concerning the child. (KRS 605.090(1)(a), KRS 610.120(3), KRS 635.070, see also KRS 635.090(4)).
- **Notification to County Attorney and Child's Legal Representative** – DJJ is required to notify the child's legal representative and the county attorney in the county of the committing court in writing 14 days in advance of a planned discharge of commitment. (KRS 635.070)<sup>xviii</sup>
- **Information to Parents When Child Placed At Home** – DJJ must provide the parents of a child placed at home with written conditions of placement and the criteria that will be used to determine whether removal is necessary. (KRS 605.090(1)(b))

- **Notification to Out of Home Placement that Child is a Sexual Offender or Has Demonstrated Known Inappropriate Behavior** – At the time a committed child is placed anywhere other than his or her parents' home, DJJ shall inform the foster home, relative, or governing authority of any private facility if the child is a juvenile sex offender as defined in KRS 635.505(2), if the child is known by the department to have engaged in any inappropriate sexual acts or behavior, or if the child is specifically known to have exhibited behaviors that create a safety risk for placement. Information received by any private agency or facility shall be disclosed immediately and directly to any individuals who have physical custody of the child. In addition, if information is obtained after placement by the department regarding any behaviors noted above, DJJ must notify the individual(s) noted above, within 72 hours of receiving the information. Foster parents and caregivers are prohibited from sharing any information received pursuant to this provision with persons who do not have a legitimate interest or responsibility relating to the case. (KRS 605.090 as amended by 02 RS HB 202)

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- **Notification of Placement or Transfer to Court** – DJJ must notify the committing court within 14 days exclusive of weekends and holidays, of the placement or transfer of a committed child. (KRS 605.090(1)(f), see also KRS 635.090(3))
- **Notification to Court in County of Placement** – DJJ must notify the court in the county where a child is placed from a DJJ residential facility of the conditions of placement. (KRS 605.090(4)).

- **Notification of Placement by Division of Placement Services** – If a juvenile is placed in a county other than the county of adjudication or sentencing, the Division of Placement Services shall notify the DJJ caseworker in the placement county of the placement. The Division shall also notify the district court in the county of placement of the juvenile's complete offense record. Note that the term "complete offense record" is not defined and there are no time requirements regarding the provision of notification. (KRS 15A.067 as amended by 02 RS HB 145)

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- **Notification to School of Offense History** – DJJ is required to provide a child's offense history information to the superintendent of a local school district in which a child committed to DJJ is placed if the offense meets the requirements for notification by the courts. This provision is included in the same section of the statutes that mandates notification to the school by the courts when a child adjudicated guilty of specific offenses and like the court notification requirements, this provision does not include any time limits on when such notification shall be made. There is no direction regarding what use the superintendent may make of the information provided., and the term "offense history information" is not defined. (KRS 610.345 as amended by 02 RS HB 145)

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- **Information to Care Providers** – DJJ is required to provide, within 7 days of the placement, a written transfer summary to the person in charge of any foster home or facility where a child is placed. The summary must include demographic information about the child, an narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan, and a copy of the child's medical and educational passport if available, provided that no information will be provided that breaches confidentiality statutes. (KRS 605.090(6))
- **Information to Caregivers** - The department is required to provide to individuals and entities contracting with the department to provide care to children with the information necessary to provide adequate care and services to the child. The cabinet is to work with CFC and KDE to develop a process to get necessary information including medical passport or history, educational passport; treatment history and current case plan to caregivers. Provision for show cause if information is not provided. (KRS 605.160)

**Information to Release to DOC or agent for Victims under VINE** - Notwithstanding KRS 610.230 or 610.240, information relating to the release of a juvenile from a detention facility charged with a felony homicide, assault, kidnapping, sexual offense, robbery, incest, unlawful transaction with a minor 1<sup>st</sup>, or use of a minor in a sexual performance, shall be made available to the DOC or its agent so that it can be released under the VINE system. Information that must be provided includes name, DOB, date of arrest, the charge, inmate number (if available), and date of release. (KRS 196.280)

**Detention Information** - Individuals and agencies may have access to detention records for the purposes of evaluation, research and statistical analysis in accordance with a formal written agreement that authorizes access, specifies the use of data, and ensures confidentiality and security. (505 KAR 2:040)

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### **Information Sharing Prohibitions and Limitations**

- **Detention Records** – Unless required to be disclosed under the open records laws, or unless the juvenile has signed a release of information form, all juvenile detention records are confidential. (505 KAR 2:040)
- **NOTE:** There is no specific confidentiality statute that applies to information collected and maintained by DJJ similar to the statute relating to information collected and maintained by local probation and parole officers or the Cabinet For Families and Children, however, the general confidentiality provisions of KRS Chapter 610 apply to records maintained by DJJ.

- **Communication Made During Sexual Offender Treatment** – Communications between a sexual offender or a member of the sexual offender's family and any employee of DJJ who is assigned to work in the sexual offender treatment program, or any approved provider are privileged from disclosure unless the sexual offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. This limitation does not apply to any communication regarding conduct in which the sexual offender was not a participant or any disclosure involving a homicide. (KRS 635.100 as amended by 02 RS HB 144)

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### **Mandated Reporting Requirements – Overview or Aggregate Data**

- **Sex Offender Program Report** - The DJJ is required to maintain complete and comprehensive data on juvenile sex offenders participating in DJJ's sex offender program and to compile an annual statistical report. (KRS 635.525). The report must be presented to the Governor, LRC and the Supreme Court. It shall not contain the names of any individual, but shall contain information that will assist in the evaluation of the program, and in the determination of whether program participants have engaged in further criminal activity as juveniles or adults. (KRS 635.545).

### **Mandatory Access to Data – Prevention Councils**

- **Juvenile delinquency prevention councils are entitled to request and receive statistical information and aggregate data not descriptive of any readily identifiable person from any public agency as defined in KRS 61.870. Requests for data must be in writing, and must include a statement of why the information is being requested, why it is needed, and how it will be used. The agency receiving the request must respond within 30 days of receiving the request (KRS 15A.300 as amended by 02 RS HB 145).**

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# Kentucky Department of Education (KDE) / Kentucky School Board (KSB)

## Data Collection Requirements

- **School Safety Data** – KDE is required to establish and maintain a statewide data collection system under which school districts must report on school safety issues. (KRS 158.444).
- **School Census Data** – KSB is responsible for taking and keeping a school census, compiling reports and developing forms and software to be used for this purpose. (KRS 156.160(1)(d)).
- **Statewide Student Numbering System** – KSB is required to develop and implement a statewide student numbering system based upon social security numbers with another number to be assigned as needed (KRS 156.160(1)(d)).
- **Statewide Discipline Data** – KDE is required to obtain statewide data on major discipline problems and reasons why students drop out of school. (KRS 158.148) **NOTE:** There are no reporting requirements and no direction provided to KDE regarding what to do with the data collected. KDE is currently in the process, under the authority granted under KRS 160.340, of consolidating all databases to simplify reporting and data collection for schools on a statewide basis.
- **Missing School Children** – KDE is required to establish a program to identify and locate missing children enrolled in Kentucky public and private schools. KDE is required to develop forms, and to compile information from forms to be distributed monthly to all public and private K – 12 schools in Kentucky. (KRS 156.495 and 704 KAR 7:060).

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## Data Included

- **School Safety Data** - All information must be reported by all schools by sex, race and grade level:
  - All incidents of:
    - violence and assault against school employees and students
    - possession of guns or other deadly weapons on school property or at school functions
    - possession or use of alcohol, prescription drugs or controlled substances on school property or at school functions.
  - The number of arrests, charges and whether civil damages were pursued by any injured party
  - The number of suspensions, expulsions, and corporal punishments
  - Assessment data required under KRS 158.445<sup>xx</sup>. (KRS 158.444).

## Mandated Information Sharing or Reporting Requirements

**School Report Card** – The Kentucky School Board is required to promulgate regulations to establish components of a school and district report card that clearly communicates with parents and the public about school performance including the following by race, gender and disability as appropriate:

- Student academic achievement, including testing results
- Student nonacademic achievement including attendance, retention, dropout and transition rates, and
- School learning environment including measures of parental involvement. (KRS 158.6453)<sup>xx</sup>.

The school report card is sent by mail to all parents of students enrolled in a school.

- **Information to Caregivers** - KDE is required to provide to individuals and entities contracting with the cabinet and DJJ to provide care to children with the information necessary to provide adequate care and services to the child. KDE is to work with DJJ and CFC to develop a process to get necessary information including medical passport or history, educational passport; treatment history and current case plan to caregivers. Provision for show cause if information is not provided. (KRS 605.160)

## Information Sharing Prohibitions and Limitations

The Kentucky Department of Education and the Kentucky School Board are limited by the same provisions of confidentiality as local schools and school districts under the Kentucky

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Educational Rights and Privacy Act, and the Federal Educational Rights and Privacy Act. These provisions are outlined below under "local school districts". **Mandated Reporting Requirements – Overview or Aggregate Information**

**Biennial Report on Education** – The chief school officer must prepare a report on the KDE to be submitted to the Governor and to the General Assembly during each biennium. The report must include the number attending public schools, amount of state funds apportioned and source of funds, amount raised by county and independent school districts, amount expended for salaries of teachers, for the erection of school buildings and for incidental expenses, and any other facts statistics and information deemed to be of interest. (KRS 156.250).

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## Local School Districts

### Data Collection Requirements

- **Attendance Records** – Local schools are required to maintain records of the names, ages and places of residence of all students in attendance at the school, and to provide such information to the superintendent within 2 weeks of the beginning of each school year. (KRS 159.160, 161.200).
- **Census Data** – The Director of Pupil Personnel<sup>xxi</sup> working under the direction of the superintendent is required to maintain a complete accurate permanent and continuous census of all children between the ages of 5 and 21 enrolled in the public schools in the district. Information must include the name, date of birth, and sex of each child, the name, nationality and PO address of each parent, guardian or custodian of each child, the school district in which the child resides, and in which the child is enrolled. (KRS 159.250).
- **Release of Information Records** – School districts are required to keep records about information released about students indicating the agency, etc that requested the information and the purpose of the release or inspection. (KRS 160.720).
- **Request for Records** – If any student who has been expelled or who is subject to expulsion for homicide, assault or an offense in violation of state law or school regulations relating to weapons, alcohol or drugs, requests a transfer of records, the records must reflect the charges and final disposition of any expulsion proceedings. (KRS 158.155(2)).

### Mandated Information Sharing or Reporting Requirements

- **Duty of Principal to Report to Local Law Enforcement** – KRS 158.154 requires that if a school principal has reasonable cause to believe that an act has occurred on school property<sup>xxii</sup> or at a school sponsored function involving assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm, possession of a controlled substance, or damage to property, the principal shall immediately report the incident to local law enforcement. (KRS 158.154)
- **Report of Criminal Activity** A school administrator, teacher or other employee must promptly report to the local police, sheriff or state police conduct by a student that they know or have reason to believe is a misdemeanor or violation related to carrying, possessing or using a deadly weapon, use possession or sale of controlled substances, or any felony offense if the conduct occurred on the school premises, within 1,000 yards of the school on a school bus or at a school sponsored event (KRS 158.155)<sup>xxiii</sup>
- **Pass Through of Information On Public Offenders** – When the principal of a school is notified by the court, as required under KRS 610.345(1) or (2) of a petition, adjudication and disposition of a child attending the school, the principal is required to convey that information to any school employee responsible for the classroom instruction of that student, and may relay the information to any transportation and counseling personnel or any other school employee the student may come in contact with, however, the information must otherwise be kept confidential. (KRS 610.345(4)).
- **Information provided to DJJ** – KRS 15A.067 provides that any other statutes to the contrary notwithstanding, DJJ shall have access to all educational records, public or private of any juvenile in any detention center.
- **Notification of Privacy Rights** – Students and parents must be informed of the rights of privacy and confidentiality afforded educational records (KRS 160.710).
- **Directory Information** – School districts can release directory information, as designated by the local district which may include a student's name, address, telephone listing, date and place of birth, participation in school sports activities, height and weight, dates of attendance, awards received, major field of study, and the most recent previous educational institution attended if the institution has provided public notice of the categories of information that will be included in the directory, and has provided a sufficient amount of time for a parent or eligible student to inform the institution that any or all of the information cannot be released without prior consent. (KRS 160.725)

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- Directory Information to Representatives of Armed Forces and National Guard – If access is provided by an educational institution to its campus or directory information to persons or groups which make students aware of educational or occupational options, then the board must also provide access on the same basis to recruiting representatives to the Armed Forces of the United States, the Kentucky Air National Guard, The Kentucky Army National Guard and the service academies of the Armed Forces of the United States. The statute further requires that the information be provided by September 30 of each year. (KRS 160.725 as amended by 02 RS HB 110)

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- **Educational Passports** – Required for all state agency children<sup>xxiv</sup> when the placement is changed and the child must change schools. The sending school is required to prepare the educational passport, which is a standard form developed by KDE in consultation with DJJ and CFC, within 2 days of the state agency child leaving, and to provide that passport to CFC or DJJ as the case may be. (KRS 158.137)
- **Dropout Notification – Driver's License Suspension** - When a 16 or 17-year-old student drops out of school<sup>xxv</sup> or is declared to be academically deficient<sup>xxvi</sup>, the principal shall notify the superintendent and within 10 days of receiving such notification from the principal, the superintendent shall report the student's name and social security number to the Transportation Cabinet. The Transportation Cabinet will then notify the student that his/her driver's license has been suspended, and shall inform the student of his/her right to a hearing before the District Court. (KRS 159.051)<sup>xxvii</sup>
- **Immunization Results** – Each public or private elementary or secondary school is required to report immunization results to the local health department (KRS 158.037).
- **School Report Card** – 703 KAR 5:140 Requires all schools and all school districts to prepare and distribute a school report card and a district report card to the parents of all children attending a school in the district, and to have additional expanded information available to parents for review upon request.
  - **The basic school report card** must include school contact information, total enrollment, school level results from the CATS test, school level results of state-sanctioned performing arts, academic or speech competitions, teacher qualification information, school safety data, student resource data, parental involvement information, a narrative describing actions taken to address issues in equity related to the delivery of educational services to all students, and the names and numbers of site based council members.
  - **The expanded school report card (available at the office)** – should also include data disaggregation, documentation of plans, policies and procedures for assisting students at risk of academic failure or of engaging in disruptive behavior, number and % of students participating in special education, number and % of students receiving instructional accommodations, executive summary of the consolidated plan, listing of average class size for core content classes, a school technology report, the number of students enrolled in 5<sup>th</sup> year primary program.
  - **District Report Card** – A district level summary of all data included in school report cards, including an aggregation by grade level. Must be published in the newspaper with largest circulation in the county.

## Information Sharing Prohibitions and Limitations

- **Education Records are Confidential<sup>xxviii</sup>** – Education records<sup>xxix</sup> of children in public educational institutions are confidential and may not be disclosed except:
  - If a parent or student over 18 consents to the release of the records or
  - Disclosure is to:
    - Other school officials with legitimate education purposes
    - Other school systems, colleges and universities to which the student has sought enrollment or transfer, or from which the student was graduated
    - Federal, state or local officials who carry out an official function and who are authorized to receive the information under state or federal law or regulation.
    - Federal, state or local officials to whom the information is required to be disclosed or reported.
    - Individuals or organizations conducting legitimate studies, surveys, and data collection so as not to permit individual identification of students or parents.
    - Accrediting organizations carrying out accrediting functions.

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- Parents of a dependent student  
(KRS 160.705, KRS 160.720(2))
- **School Law Enforcement Records** – ARE NOT considered educational records, and are thus not subject to the confidentiality requirements of Kentucky's Educational Privacy Act or FERPA (KRS 160.700(3)(b)).
- **Information Provided by the Court to School Principal** – Information provided by the courts to the schools relating to public offenses committed by students does not become a part of the juvenile's education record. (KRS 610.345(4).<sup>xxx</sup>)
- **Challenge of Records** – Students and parents have a right to request the amendment of educational records and if the amendments are not made, to challenge the refusal of the school to make the amendments. (KRS 156.070, 160.730, and 702 KAR 1:140)

**PENALTIES FOR VIOLATION** of any rights afforded a student regarding the confidentiality of educational records are set forth in 20 USC 1232g.

Parents and students are provided a civil cause of action against the school board or any school administrator if information provided to the school by the courts under the statutes discussed under the "court of justice section" is divulged inappropriately. (KRS 158.153(3))

- **Special Education Records** – Confidentiality provisions and access rights for special education records are addressed in 707 KAR 1:360.

### **Mandated Reporting Requirements – Overview or Aggregate Data**

- **Annual Report of Disabled Children** – Each school district is required to ascertain annually all children within the district who are disabled, and shall report to KDE on forms provided by KDE (KRS 157.260).
- **Report of Funds** – Each school and each school district are required to report to the Kentucky Board of Education at the close of each scholastic year showing in detail all funds received and a detailed statement of expenditures for the year (KRS 157.060).

## Students and Parents

- **Notification to New School of Student Conduct** – The parent or guardian or other person or agency responsible for any student adjudicated guilty of any criminal offense related to homicide, assault, weapons, alcohol or drugs who has been expelled from school for any such offense, must provide any new school in which the student is enrolling with a sworn statement or affirmation on a form provided by the Kentucky Board of Education that the student has been expelled from school for committing such offense. (KRS 158.155).
- **Notification of Medical Condition** – The parent or guardian or other person or agency responsible for a student must notify the school if the student has any medical condition that is defined by CHS in administrative regulation as threatening the safety of the student or others at school. The notice must be provided as soon as the medical condition is known, and upon each subsequent enrollment in a school. The principal or guidance counselors will notify the student's teachers in writing of the condition. (KRS 158.160)

# Cabinet for Families and Children

## Data Collection Requirements

In order to meet the annual reporting requirements established by KRS 194B.360, discussed below, the Cabinet must maintain a comprehensive database that has the capability of providing information in many different formats.

## Confidentiality and Information Sharing

- **Regulations Required** - Requires promulgation of regulations to protect the confidential nature of all records and reports maintained by the Cabinet that directly or indirectly identify a client or patient or former client or patient of the cabinet unless the person or his or her guardian gives consent or disclosure is permitted under state or federal law. (KRS 194B.060) Except for a regulation relating to a specific program (child support) no regulation could be found.
- **Sharing Provisions** - Permitted to share information as allowed by state and federal law with other public, quasi-public and private agencies involved in providing services to current or former clients or patients subject to confidentiality agreements if those agencies demonstrate a direct, tangible and legitimate interest in the records. (KRS 194B.060).

## Mandated Information Sharing or Reporting Requirements

- **Notification to Court of Release of Commitment** – The Cabinet must notify the committing court in writing at least 14 days prior to the release of a commitment that the commitment will be released. (KRS 605.090). The cabinet also must notify the committing court in writing 14 days before a child turns 18 that the commitment is about to expire. The cabinet is also required provide a written summary of information concerning the child. (KRS 605.090(1)(a), KRS 610.120(3)).
- **Educational Assessment** – Within 60 days of the commitment date of a child due to abuse, neglect or dependency the cabinet is required to provide the court with jurisdiction and the foster parent or other agency caring for the child an assessment of the child to determine the child's current and historical educational functioning, the child's emotional and behavioral functioning, and the extent to which the child's life experiences and circumstances of commitment have created a disabling condition requiring special educational programming or other services to provide the child with an appropriate public education. (KRS 620.145)<sup>xxxi</sup>
- **Case Permanency Plan** – The cabinet is required to file a case permanency plan for each child with the court no later than 30 days after the order of commitment. The case permanency plan includes detailed information about the child, the reasons the child was taken into custody, the plan for the child, contemplated placements, reasons for in home or out of home placements as well as other information. (KRS 623.230)
- **Case Progress Reports** – Must be filed every 6 months with the court and the Citizen's Foster Care Review Board. (KRS 620.240). Case progress reports must include activities undertaken to ensure that a child committed to the cabinet receives an adequate public education (KRS 620.145(4)).
- **Citizen Foster Care Review Board<sup>xxxii</sup> and Court Appointed Special Advocates Program<sup>xxxiii</sup> Access to Records** – Citizen Foster Care Review Boards and CASAs have access to all information and records of the cabinet pertaining to cases under review by the board or children represented by the CASA.(KRS 620.250)
- **Information to Parents When Child Placed At Home** – The Cabinet must provide the parents of a child placed at home with written conditions of placement and the criteria that will be used to determine whether removal is necessary. (KRS 605.090(1)(b))
- **Notification to Out of Home Placement that Child is a Sexual Offender or Has Demonstrated Known Inappropriate Behavior** – At the time a committed child is placed anywhere other than his or her parents' home, the cabinet shall inform the foster home, relative, or governing authority of any private facility if the child is a juvenile sex offender as defined in KRS 635.505(2), if the child is known by the department to have engaged in any inappropriate

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sexual acts or behavior, or if the child is specifically known to have exhibited behaviors that create a safety risk for placement. Information received by any private agency or facility shall be disclosed immediately and directly to any individuals who have physical custody of the child. In addition, if information is obtained after placement by the cabinet regarding any behaviors noted above, the cabinet must notify the individual(s) noted above, within 72 hours of receiving the information. Foster parents and caregivers are prohibited from sharing any information received pursuant to this provision with persons who do not have a legitimate interest or responsibility relating to the case. (KRS 605.090 as amended by 02 RS HB 202)

- **Notification of Placement or Transfer to Court** – The Cabinet must notify the committing court within 14 days exclusive of weekends and holidays, of the placement or transfer of a committed child. (KRS 605.090(1)(f))
- **Records to Parole Board and Corrections** - Upon request, records pertaining to a child sentenced as a youthful offender must be made available to the Parole Board and the department of Corrections. (KRS 640.090)
- **Information to Care Providers** – The Cabinet is required to provide, within 7 days of the placement, a written transfer summary to the person in charge of any foster home or facility where a child is placed. The summary must include demographic information about the child, an narrative statement detailing the child's prior placements, the length of time the child has been committed, a description of the services and assistance provided to the child or the child's family since the most current case plan, a copy of the current case plan, and a copy of the child's medical and educational passport if available, provided that no information will be provided that breaches confidentiality statutes. (KRS 605.090(6)).
- **Information to Caregivers** - The cabinet is required to provide to individuals and entities contracting with the cabinet to provide care to children with the information necessary to provide adequate care and services to the child. The cabinet is to work with DJJ and KDE to develop a process to get necessary information including medical passport or history, educational passport; treatment history and current case plan to caregivers. Provision for show cause if information is not provided. (KRS 605.160)
- **Information to Citizen Foster Care Review Board Program-**  
The following information is required to be sent by the cabinet to the Foster Care Review Board Program:
  - A copy of any voluntary commitment order to the Citizen Foster Care Review Board Program at AOC within 14 days of the commitment. (KRS 620.220)
  - The case permanency plan for each child within 30 days after the effective date of the commitment order.

### **Mandated Reporting Requirements – Overview and Aggregate Data**

- **Statewide Strategic Planning Committee for Children in Placement** - Established by legislation and administratively attached to the Department for Community Based Services (KRS 194B.102). Members include:
  - Secretary of CFC
  - Commissioner – Public Health
  - Commissioner – Mental Health and Mental Retardation
  - Commissioner – Department for Medicaid Services
  - Commissioner – Department of Community Based Services
  - Commissioner – Department of Juvenile Justice
  - Commissioner – Department of Education
  - Executive Director – Administrative Office of the Courts
  - 1 foster parent
  - 1 District Judge
  - 1 parent of a child in placement
  - 1 youth in placement
  - 1 private child care provider
- **Mandated Documents** -

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- **Strategic Plan** - By July 1999 a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. Submitted to the Governor, Chief Justice and LRC on or before July 1 of each year (KRS 194B.102).
- **Statewide Facilities Services Plan** – Identifies the location of existing facilities and services, identifies unmet needs, and develops strategies to meet the needs.
- **Annual Report** - By December 1 of each year that includes the data identified below.
- **Mandated Development of Integrated Information Systems** – Mandated to plan for the development of an integrated information system to share information across agencies and entities. The system shall produce, at a minimum, the following information on a monthly basis: number of placements per child, reasons for placement disruptions, length of time between removal and permanency, reabuse or reoffense rates, fatality rates, injury and hospitalization rates, health care provision rates, educational achievement rates, multiple placement rates, sibling placement rates, ethnicity matching rates, family maintenance and preservation rates, and adoption disruption rates.
- **Annual Report on Committed Children** – The cabinet is required to report annually to the Governor, the General Assembly, and the Chief Justice, by December 1 of each year the following:
  - The number of children under an order of dependent, status, public or voluntary commitment to the cabinet according to permanency planning goals, current placement, average number of placements, type of commitment, and the average length children remain committed to the cabinet.
  - The number of children in, average length of stay, and average number of placements experienced for children in: foster homes, private child care, placement at home.
  - The number of children eligible for adoption, the number placed in adoptive homes, the number not eligible, and reasons why.
  - The cost in federal and state general funds to care for the children, including the average cost per child for each type of placement, direct social worker services, operating expenses, training and administrative costs. (KRS 194B.360).
- **Biannual Comparison of Foster Care Rates** – The cabinet is required to review reimbursement rates paid to foster parents on a biannual basis, and to issue a report in October of each odd numbered year to LRC comparing rates paid to foster parents in Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the US Department of Agriculture, and the rates paid to foster parents by other states. (KRS 605.120(3)).

## Cabinet for Health Services

### Department for Mental Health and Mental Retardation Services

#### Mandated Data Collection Requirements

None Noted

#### Data Included

#### Mandated Information Sharing or Reporting Requirements

- Availability of Data to Other Criminal Justice Agencies

The Cabinet for Health Services shall, in cooperation with KSP, DJJ, AOC, and DOC, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440:

(2) CHS shall provide access to KSP, DJJ, AOC, and DOC to its database. (KRS 194A.065(3)).

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- Permissive Sharing of Information With Other Service Providers – CHS is permitted to share records with other

public, quasi-public and private agencies involved in providing services to current or former patients or clients as allowed by federal and state law if those agencies demonstrate a direct, tangible, and legitimate interest in the records. (KRS 194A.060(2)).

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#### Information Sharing Prohibitions and Limitations

- Confidentiality of Records and Reports – The secretary is required to promulgate administrative regulations to protect the confidential nature of all records and reports of the cabinet that directly or indirectly identify a patient or client or former patient or client, and to ensure that records are released with consent, or in accordance with state or federal law. (KRS 194A.060).

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- Confidentiality of Records and Reports – A Second Statute – All applications and requests for admission and release, and certifications, records, and reports of CHS which directly or indirectly identify a patient or former patient or person whose hospitalization has been sought are confidential except: if the person or his guardian consents to release: the disclosure is necessary to carry out the provisions of state or federal law or a court directs disclosure of information. (KRS 210.235)

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#### Mandated Reporting Requirements – Overview or Aggregate Information

- Sharing of Aggregate Data – Some DMHMRS aggregate data is readily available and accessible. The University of Kentucky Research and Data Management Center captures data related to a client's primary and secondary referral source. Additionally IMPACT evaluation data is available. (Letter from Bruce W. Scott, Director, Department for Mental Health and Mental Retardation Services, Division of Mental Health, dated November 28, 2001)
- Sharing of Information Generally – Sharing of aggregate data (totals, averages, trends and other information that cannot be used to readily identify a client) is not a problem in the mental health arena. However information that can be linked to a specific client is not readily available. (Letter from Bruce W. Scott, Director, Department for Mental Health and Mental Retardation Services, Division of Mental Health, dated November 28, 2001)

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## Duty to Warn

### Duty to Report Dependency, Neglect or Abuse

- General Duty to Report - KRS 620.030 requires any person who knows or who has reasonable cause to believe that a child is dependent, neglected or abused to immediately report such information orally or in writing to local law enforcement or KSP, CFC, the Commonwealth's attorney or county attorney.
- Good faith report – Anyone making a good faith report is provided immunity from any liability civil or criminal. (KRS 620.050).

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### Mental Health Professionals and Duty to Warn

- General Rule - Mental health professionals and persons serving as counselors are protected for failing to predict, warn or take precautions to provide protections from a patient's violent behavior unless the patient has communicated an actual threat of violence against a clearly identified or reasonably identified person, or the person has communicated an actual threat of a specific violent act. In case of an actual threat against an identifiable person, the mental health professional must make reasonable efforts to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and victim's residence. In the case of a threat of a specific violent act, the mental health professional must make a reasonable effort to communicate the threat to law enforcement. (KRS 645.270. See also KRS 202A.400)
- Good faith report - A mental health professional is protected from criminal or civil liability for confidences disclosed to third parties in an effort to disclose the duty to warn requirements set forth above (KRS 645.270).

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## Miscellaneous

### Victim Notification System

Juvenile Detention Victim Notification System (VINE) – KRS 196.280 requires the Department of Corrections to establish a system whereby victims who have made a notification request, can be notified of the release of a person from a juvenile detention facility or county jail. The jailer or superintendent is required to make information necessary to provide such notification available to DOC or its agent.

- **Release of information about Juveniles** – Notwithstanding KRS 610.230 or 610.240, information relating to a juvenile charged with a felony homicide, assault, kidnapping, sexual offense, robbery, incest, unlawful transaction with a minor <sup>1</sup>, or use of a minor in a sexual performance, shall be released to victims under the VINE system.

### Multidisciplinary Teams and Children's Advocacy Centers

- **Annual Report** – Multidisciplinary teams<sup>1xxxiv</sup> are required to provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases. (KRS 620.040(7)(e))
- **Confidential Information** – Team members and others attending team meetings are required to sign a confidentiality statement and are prohibited from divulging case information. (KRS 620.040(7)(f))
- **Review of Other Agency Data** – Multidisciplinary teams are authorized to review information collected by other agencies, organizations and individuals responsible for investigation, prosecution or treatment, including information normally held confidential under KRS 610.320 – 610.340. (KRS 620.040(7)(h))
- **Children's Advocacy Centers Confidential Information** – Files, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services are confidential and shall not be disclosed except to:
  - Staff employed by CFC, law enforcement, and Commonwealth's and county attorneys who are directly involved in the prosecution of the case;
  - Medical and mental health professionals listed by name on a release of information form and signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse related symptoms; and
  - The court and those persons authorized by court order. (KRS 620.050 as amended by 02 RS HB 393)
- **Other Exceptions – Children's Advocacy Centers Information Sharing** – Parents and guardians may access information if the parent/guardian is not currently under investigation for abuse of a child; Information can be disclosed to the multidisciplinary team after team members sign a confidentiality statement; and employees or agents of child advocacy centers may confirm that a child has been seen for services to another child advocacy center, but files and additional information cannot be released unless the guardian of the child has signed an information release. (KRS 620.050 as amended by 02 RS HB 393)
- **Limitations on recording and use of interviews** – Interviews of children recorded at children's advocacy centers may not be duplicated except the Commonwealth's or county attorney prosecuting the case may make and retain 1 copy of the interview, and defendant's counsel may make 1 copy which shall not be duplicated, and which shall be

**Deleted: Duty to Report Dependency, Neglect or Abuse¶**  
<#>General Duty to Report - KRS 620.030 requires any person who knows or who has reasonable cause to believe that a child is dependent, neglected or abused to immediately report such information orally or in writing to local law enforcement or KSP, CFC, the Commonwealth's attorney or county attorney. ¶  
¶  
<#>Good faith report – Anyone making a good faith report is provided immunity from any liability civil or criminal. (KRS 620.050).¶  
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<sup>1</sup>

filed with the court clerk at the close of the case. Unless objected to by the victim the court shall order all interviews introduced into evidence to be sealed. (KRS 620.050 as amended by 02 RS HB 393).

## **Commonwealth's Attorney's Duty to Transmit Commitment Papers for Youthful Offenders**

It is the duty of the Commonwealth's Attorney, unless the defendant is granted probation, to transmit to the facility or program where a youthful offender will be housed a concise statement of the facts adduced at the trial or hearing. (KRS 640.060)

## Endnotes

<sup>i</sup> Any opinions or conclusions expressed in the first four pages of this document are those of the author and should not be attributed to any other agency or entity.

<sup>ii</sup> See Howell, James C., (1997) *Juvenile Justice and Youth Violence*. California, SAGE Publications, Chapter 1.

<sup>iii</sup> See Petrone, Robert F. and Eiten, Tamryn (1994) "Sharing Data and Information in Juvenile Justice: Legal, Ethical, and Practical Considerations," *Juvenile and Family Court Journal*, v.45 pp. 65 – 66.

<sup>iv</sup> See Mendel, Richard A., (2000) "Less Hype, More Help: Reducing Juvenile Crime, What Works – And What Doesn't", *American Youth Policy Forum*, p. 48; see also Soler, Mark, Shotten, Alice, and Bell, James "Glass Walls: Confidentiality Provisions and Interagency Collaborations" (1993)

<sup>v</sup> See Howell, James C., (1997) *Juvenile Justice and Youth Violence*. California. SAGE Publishing, specifically pp. 170 – 192, describing the basis for a comprehensive strategy, which incorporates as its third element, an "integrated system response, bringing the juvenile justice system together with the mental health, child welfare, education, health and law enforcement systems, and communities as well, to address multiple risk factors and co-occurring problem behaviors." p. 171. See also Stephens, Ronald D., and Arnette June Lane, "From the Courthouse to the Schoolhouse: Making Successful Transitions", *OJJDP Juvenile Justice Bulletin*, February 2000.

<sup>vi</sup> See Laney, Ronald, "Information Sharing and the Family Educational Rights and Privacy Act" Office of Juvenile Justice and Delinquency Prevention Fact Sheet #39, July 1996; Soler, M, Peters C. (1993) *Who Should Know What? Confidentiality and Information Sharing in Service Integration*. Des Moines, IA: National Center for Service Integration (pp. 5 and 12- 19); Slayton, Julie, "Forming a Multidisciplinary Information-sharing System", *JAIBG Bulletin*, March 2000

<sup>vii</sup> Slayton, Julie "Establishing and Maintaining Interagency Information Sharing";

<sup>viii</sup> The following individuals were interviewed or provided information to support this project:

Lt. John Moberly, Sgt. Brad Bates, Carol Bowman, Dorothy Luckett and Shirley Cardwell, Kentucky State Police  
Carol Ullerich, Dr. Deborah Williamson and Sara Boswell Dent, Administrative Office of the Courts  
Lt. James Searle, Lexington-Fayette Urban County Government Police  
Marjorie Yuill and Keith Horn, Kentucky Department of Juvenile Justice  
Paul Embley and Louis Smith – Justice Cabinet – UCJIS Project  
Kevin Noland and Anne Keating – Kentucky Department of Education

<sup>ix</sup> In *Hardin County Schools v. Foster et. al.*, (1999-SC-03330DG) issued by the Kentucky Supreme Court on March 22, 2001, the Court upheld a newspaper's request for the release of aggregate school discipline data under an open records request. The issue before the court was whether the statistical compilation of school discipline hearings maintained by a school district constitutes an educational record that contains "personally identifiable information" or information that could be easily traceable to an individual student. The court held that it did not, stating that the burden of proof is on the public agency to show that a requested document fits within an exception to the open records statutes, and that the open records statute demonstrates a general bias favoring disclosure.

<sup>x</sup> Release of student educational records – KRS 160.720(2)(e); release of juvenile district court proceedings – KRS 610.320(6).

<sup>xi</sup> This statute is included in the chapter addressing public assistance and medical assistance. Therefore, many of the state agencies referenced may not be aware of its existence.

<sup>xii</sup> See generally KRS 7.111, 15A.310, 17.151, 27A.300, and 196.093.

<sup>xiii</sup> Note that the State Police actually maintain 7 different databases. The two presented here are the most relevant to juvenile records. Other State Police databases include accident reporting, concealed deadly weapon, domestic violence orders, sex offender registry, and law enforcement network.

<sup>xiv</sup> 502 KAR 30:060 provides that juvenile records maintained by the State Police shall not be released without a court order. This regulation does not conform with later enacted statutes to implement the UCJIS system.

<sup>xv</sup> "Peace Officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests." KRS 446.010(24).

<sup>xvi</sup> The fact that a juvenile case can be filed in court without a citation and that juveniles are often not fingerprinted creates an issue for the implementation of the UCJIS system, as the system requires both a fingerprint card and citation to create a record entry.

<sup>xvii</sup> These offenses include a Capital, Class A or Class B offenses resulting in death or serious physical injury, rape or sodomy 1<sup>st</sup>, and any felony drug, assault, sex or firearms charge.

<sup>xviii</sup> The county attorney can object through holding a court review under KRS 610.120.

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<sup>xix</sup> This section lists 13 mandatory factors that local school districts must consider in assessing school safety, beginning in the 1998-99 school year. NOTE that assessments completed by local school districts DO NOT have to be submitted to KDE or the Center for School Safety unless the school district is requesting safe schools funding. (KRS 158.445). NOTE ALSO that a member from the local prevention council must be included on a school district's school safety team. (KRS 158.445(3)).

<sup>xx</sup> See 703 KAR 5:140 for detailed information about what should be included in a school report card and the district report card.

<sup>xxi</sup> The Director of Pupil Personnel is a mandated school district employee vested with the powers of peace officers. They investigate nonattendance issues, take action in regard to such issues, and can institute court action to enforce the compulsory attendance laws. (KRS 159.130)

<sup>xxii</sup> "School property" includes any public school building, bus, public school campus, grounds, recreational area or athletic field in charge of the principal. (KRS 158.154)

<sup>xxiii</sup> This statute includes an incorrect internal reference – 158.155(5) references subsection (1) – this should be subsection (4).

<sup>xxiv</sup> A "state agency child" is defined as those children of school age committed to or in the custody of the CFC or DJJ and placed or financed by the Cabinet or the Department in a CFC or DJJ operated or contracted facility or program and school aged children served in home and community based services provided as an alternative to intermediate care facilities for the mentally retarded. (KRS 158.135).

<sup>xxv</sup> A student is deemed to have dropped out if he or she has 9 or more unexcused absences in the prior semester. Suspensions count as unexcused absences. (KRS 159.051)

<sup>xxvi</sup> A student is deemed to be academically deficient when he has not received passing grades in at least 4 courses or the equivalent of 4 courses in the preceding semester. (KRS 159.051)

<sup>xxvii</sup> See KRS 159.051 for additional details about rights of appeal and other procedural issues relating to the revocation and possible reinstatement.

<sup>xxviii</sup> Kentucky's Family Education Rights and Privacy Act generally follows the provisions of the Federal Family Education Rights and Privacy Act (FERPA).

<sup>xxix</sup> "Education Records" are defined as data and information directly relating to a student that is collected or maintained by educational institutions or by a person acting for an institution including academic records and portfolios, achievement tests, aptitude scores, teacher and counselor evaluations, health and personal data, behavioral and psychological evaluations. (KRS 160.700).

<sup>xxx</sup> KRS 158.153 prohibits a school from expelling or punishing a child based upon information contained in a record of an adjudication of delinquency or conviction of an offense received by a school pursuant to KRS 610.345 or from any other source without taking the actions outlined in KRS 158.150 relating to suspension and expulsion. This section also prohibits any school, school administrator, teacher or other employee who has custody of records received or maintained pursuant to KRS 610.345 or has received information from such records from disclosing the contents of the records, or the fact of their existence.

<sup>xxxi</sup> Note that this provision does not apply to children committed to the cabinet for status offenses.

<sup>xxxii</sup> The Citizen's Foster Care Review Board program (FCRB), established by KRS 620.190, is administratively attached to the Administrative Office of the Courts. Local FCRBs review case files on all children committed to CFC to ensure that children are being provided the services they need. FCRB's provide reports to the district court regarding reviewed cases.

<sup>xxxiii</sup> The Court Appointed Special Advocate Program, established by KRS 620.500 – KRS 620.550, trains citizen volunteers to advocate on behalf of dependent, abused and neglected children in court. This program is administratively attached to the Administrative Office of the Courts.

<sup>xxxiv</sup> Multidisciplinary teams, established by KRS 620.040, must include CFC workers and law enforcement, and may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators and other related professionals. Multidisciplinary teams exist for the purpose of reviewing child sexual abuse cases referred by participating professionals to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of the case through the criminal justice system.